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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,189	10/23/2003	Takashi Inoue	P/16-346	2323

2352 7590 02/08/2007  
OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER
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SELBY, GEVELL V

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,189	INOUE, TAKASHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gevell Selby	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09271531.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-2 are rejected on the ground of nonstatutory double patenting over claim 1 of U.

S. Patent No. 6,714,248, since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: Claims 1 and 2 in the instant application (application 2) recites the same limitations

Art Unit: 2622

as claim 1 in application 1, However, claim 1 in application 1 recites the additional limitation of the axial direction of the capacitor. Since claims 1 and 2 in application 2 are a broader recitation of claim 1 in application 1, it would have been obvious to modify claim 1 in application 1 to get claims 1 and 2 in application 2, in order to have a simpler embodiment of the invention.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968).

See also MPEP § 804.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994.**

In regard to claim 1, Matsukawa et al, US 5,867,744, discloses an electronic image pickup apparatus, comprising:

a generally flattened, apparatus body (see figure 14, element 51) having a principal body plane that is associated with and generally aligned with a front side of the apparatus (see figure 8, element XII);

first and second electrical boards (see figure 15, elements 63 and 64) having respective component sides oriented substantially parallel to the principal body plane of the apparatus, the first and second electrical boards being spaced apart at a predetermined interval to create a space (see column 7, lines 41-45);

the lens barrel extending generally perpendicularly to the principal body plane (see figure 3, element 104);

a plurality of power supply batteries (see figure 15, elements 52 a and b) arranged in the space between the electrical boards so that an axial direction of the plurality of power supply batteries is parallel to the component sides of the electrical boards and the batteries extend in a row without overlapping one another (see column 6, lines 23-29: a vertical axis through the center of the batteries (52 a and b) is parallel the sides of the electrical boards).

The Matsukawa reference does not disclose that the image pickup apparatus converts a subject image imaged by an image-taking optical system into an electrical signal using an imager provided behind a picture-taking lens barrel or comprises a relay board arranged in the space and connecting the electrical boards.

The Matsukawa reference discloses in another embodiment an FPC 17 that connects electrical boards (see figure 6, element 17 and column 4, line 66 to column 5, line 2).

Tani, US 5,821,994, discloses an image pickup apparatus that converts a subject image imaged by an image-taking optical system into an electrical signal using an imager provided behind a picture-taking lens barrel (see column 2, lines 35-49) and comprises a

relay boards (see figure 1, elements 18, 22, and 32) arranged in the space and connecting the electrical boards (see column 2, lines 48-58)

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, to have the image pickup apparatus convert a subject image imaged by an image-taking optical system into an electrical signal using an imager provided behind a picture-taking lens barrel and to comprise a relay board arranged in the space and connecting the electrical boards, in order to be able to perform image processing on the image as well as allowing the data to be easily saved on a recording medium or transferred to another device and connecting the electrical boards allows data to easily be transferred through the camera system.

In regard to claim 3, Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, discloses the electronic image pickup apparatus according to claim 1. The Tani reference further comprising:

a plurality of connecting terminals (see figure 1, elements 14 and 16) installed at predetermined positions on the electrical boards and arranged so that a part of each of the plurality of connecting terminals is exposed to the exterior of the apparatus through a side of the body (see column 2, lines 27-30).

The Matsukawa reference discloses a member for attachment of a tripod (see figure 15, element 56), wherein it is implied the tripod of the Matsukawa reference, when combined with the Tani reference, is arranged in a space surrounded by the plurality of connecting terminals and located on a bottom part of the body.

In regard to claim 4, Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, discloses the electronic image pickup apparatus according to claim 1. The Matsukawa reference implies wherein it is the location of the relay board is bounded by the electrical boards, the lens barrel, and the power supply batteries (see figure 15: the relay board would be located between boards 63 and 64, which would bound it by the components).

In regard to claim 6, Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, discloses the electronic image pickup apparatus according to claim 1, further comprising a battery chamber (see figure 15, element 58) in which the plurality of batteries are located and a battery chamber lid provided at a bottom side of the apparatus body (see element 51a).

**6. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, as stated in regard to claim 1, and further in view of Toyofuku et al., US 6,181,380.**

In regard to claim 2, Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, discloses the electronic image pickup apparatus according to claim 1. The Matsukawa reference does not disclose further comprising:

a strobe flashing unit arranged on an upper surface of the body; and

a capacitor for strobe flashing that is arranged in a space under the strobe flashing unit and between the lens barrel and an internal side wall of the body.

Toyofuku et al., US 6,181,380, discloses an electronic image pickup apparatus comprising:

a strobe flashing unit (see figure 4, element 22) arranged on an upper surface of the body; and

a capacitor (see figure 4, element 36) for strobe flashing that is arranged in a space under the strobe flashing unit and between the lens barrel and an internal side wall of the body (see column 6, lines 6-20).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, and further in view of Toyofuku et al., US 6,181,380, to have a strobe flashing unit arranged on an upper surface of the body; and a capacitor for strobe flashing that is arranged in a space under the strobe flashing unit and between the lens barrel and an internal side wall of the body, in order to properly light the subject to obtain a better quality image.

In regard to claim 7, Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, discloses the electronic image pickup apparatus according to claim 1.

The Matsukawa and Tani references do not disclose further comprising a reflective liquid crystal display unit disposed at a rear side of the body of the apparatus.

Toyofuku et al., US 6,181,380, discloses an electronic image pickup apparatus comprising:

a reflective liquid crystal display unit disposed at a rear side of the body of the apparatus (see figure 3, element 18 and column 5, lines 23-34).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Matsukawa et al, US 5,867,744, in view of



Art Unit: 2622

Tani, US 5,821,994, and further in view of Toyofuku et al., US 6,181,380, to have a reflective liquid crystal display unit disposed at a rear side of the body of the apparatus, in order to view the captured image to verify it was captured correctly.

**7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, as stated in regard to claim 1, and further in view of Kitsugi et al., US 2005/0185002.**

In regard to claim 5, Matsukawa et al, US 5,867,744, discloses the electronic image pickup apparatus according to claim 1. The Matsukawa reference does not disclose further comprising an image memory board having a main body plane that extends substantially parallel to the principal body plane of the apparatus, the memory board being positioned in a space between the front side of the apparatus and the electrical boards.

Kitsugi et al., US 2005/0185002, discloses an electronic pickup apparatus with a memory card positioned between a circuit board the batteries (see para. 49).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Matsukawa et al, US 5,867,744, in view of Tani, US 5,821,994, and further in view of Kitsugi et al., US 2005/0185002, to have an image memory board in the form of a memory card having a main body plane that extends substantially parallel to the principal body plane of the apparatus, the memory board being positioned in a space between the front side of the apparatus and the electrical boards, in order to save space.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2003/0140846, discloses a digital camera with batteries arranged vertically in a row in the housing.

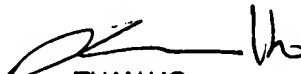
US 6,215,944, discloses a camera with the battery position vertically in the housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gvs

  
TUAN HO  
PRIMARY EXAMINER  
Acting SPE